

**REMARKS**

The above-identified application has been reviewed in light of the Office Action mailed on October 30, 2007. By the present amendment, claim 1 has been amended and claim 19 has been added. It is respectfully submitted that the pending claims are fully supported by the specification, introduce no new matter, and are allowable over the references of record.

In the Office Action, claims 1, 6, and 7 were rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 4,204,541 to Kapitanov (“Kapitanov”) in view of U.S. Patent No. 4,084,594 to Mosior (“Mosior”). The Office Action averred that Kapitanov discloses an applicator for attaching fasteners to body tissue including a rotator cooperating with an actuator. Further, the Office Action acknowledged that Kapitanov fails to disclose a longitudinal groove, but asserted that Mosior discloses a rotator with a longitudinal groove and it would have been obvious to provide the rotator of Kapitanov with the longitudinal groove of Moisior.

As presently amended, claim 1 recites an applicator for attaching fasteners to body tissue including, *inter alia*, a rotator cooperating with an actuator, “wherein the rotator resides within and extends substantially the length of the outer tube such that actuation of the actuator rotates the fastener relative to the outer tube while the rotator remains longitudinally stationary with respect to the outer tube.”

In contrast, Kapitanov relates to a surgical instrument having a cylindrical rod disposed within a hollow body. The cylindrical rod 10 has a spiral screw thread 11 receiving a stationary screw 12. In operation, a user “must rotate rod 10 (FIG. 1) counterclockwise by the lug 13 till the screw 12 thrusts against the end of the screw thread 11 as shown in FIG. 2” to actuate the surgical instrument of Kapitanov. While the cylindrical rod 10 rotates, the screw 12 remains stationary and the cylindrical rod 10 moves upwardly with respect to the hollow body 1 until the

end of the screw thread 11 reaches the fixed screw 12, as illustrated in FIGS. 1 and 2 of Kapitanov (reproduced hereinbelow). Thus, Kapitanov fails to anticipate or suggest an applicator including, *inter alia*, a rotator wherein the “actuation of the actuator rotates the fastener relative to the outer tube while the rotator remains longitudinally stationary with respect to the outer tube,” as recited in amended claim 1. Providing Kapitanov with the longitudinal groove of Mosior does not cure the deficiencies of Kapitanov. Since Kapitanov specifically discloses relative longitudinal movement of the rod with respect to the hollow body, the applicants respectfully submit that Kapitanov, either by itself or in combination with Mosior, fails to suggest the applicator recited in claim 1. It is respectfully submitted that the rejection of the Office Action has been overcome and that claim 1 is in condition for allowance. Since claims 6 and 7 depend from claim 1, the applicants respectfully submit that claims 6 and 7 are also in condition for allowance.

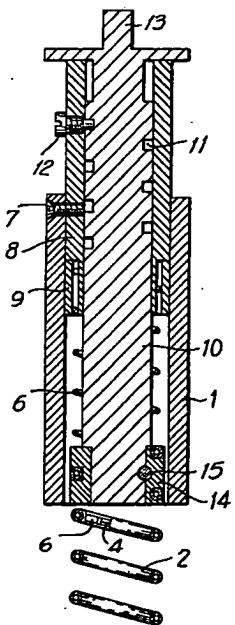


FIG.1

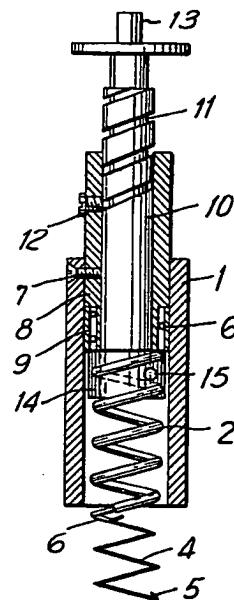


FIG.2

Additionally, the Office Action rejected claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of Mosior and further in view of U.S. Patent No. 4,596,350 to Smith et al. (“Smith”). According to the Office Action, Kapitanov and Mosior disclose the devices recited in claims 2 and 3 except for a lock/clip indicator and a load spring. The Office Action stated that Smith discloses a lock/clip indicator for engaging a plurality of fasteners from the applicator and a load spring for applying longitudinal forces against the lock/clip indicator.

As previously discussed, Kapitanov does not disclose or suggest an applicator, wherein the “actuation of the actuator rotates the fastener relative to the outer tube while the rotator remains longitudinally stationary with respect to the outer tube” as recited in claim 1. Adding the lock/clip indicator and load spring of Smith to Kapitanov fails to suggest the applicator recited in claim 1. Smith fails to disclose any additional features that, in combination with Kapitanov and Mosior, suggest the applicator recited in claims 2 and 3. Since claims 2 and 3 depend from claim 1, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office Action has been overcome.

Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of Mosior and further in view of U.S. Patent No. 5,433,721 to Hooven et al. (“Hooven”). The Office Action stated that Kapitanov and Mosior disclose the devices recited in claims 4 and 5 except for a thread form contained in an interior of the terminal end adapted to engage the plurality of fasteners and an interlock spring fixedly retained in the interior of the terminal end.

As previously discussed, Kapitanov does not disclose or suggest an applicator, wherein the “actuation of the actuator rotates the fastener relative to the outer tube while the rotator remains longitudinally stationary with respect to the outer tube” as recited in claim 1. Adding

the helical thread form of Hooven to Kapitanov and Mosior fails to suggest the applicator recited in claim 1. Hooven fails to disclose or suggest any additional features that, in combination with Kapitanov and Mosior, suggest the applicator recited in claims 4 and 5. Since claims 4 and 5 depend from claim 1, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office Action has been overcome.

Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of Mosior and further in view of U.S. Patent No. 5,100,420 to Green et al. (“Green”). According to the Office Action, Kapitanov and Mosior disclose the device recited in claim 8 except for a distal portion being disposable and the proximal portion being reusable. The Office Action asserted that Green discloses a distal portion being disposable and the proximal portion being reusable.

As discussed above, Kapitanov does not disclose or suggest an applicator, wherein the “actuation of the actuator rotates the fastener relative to the outer tube while the rotator remains longitudinally stationary with respect to the outer tube” as recited in claim 1. Adding the distal and proximal portions of Green to Kapitanov fails to suggest the applicator recited in claim 1. Green fails to disclose or suggest any additional features that, in combination with Kapitanov and Mosior, suggest the applicator recited in claim 8. Since claim 8 depends from claim 1, it is respectfully submitted that this claim is in condition for allowance and the rejection of the Office Action has been overcome.

Claims 9 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of Mosior and further in view of U.S. Patent No. 5,607,436 to Pratt et al. (“Pratt”). The Office Action asserted that Kapitanov and Mosior disclose the devices recited in claims 9 and 14 except for a lever having a first end, a midsection, a second end, a lead screw,

and a nut driver. The Office Action stated that Pratt discloses a lever having a first end, a midsection, a second end, a lead screw, and a nut driver.

As discussed hereinabove, Kapitanov does not disclose or suggest an applicator, wherein the “actuation of the actuator rotates the fastener relative to the outer tube while the rotator remains longitudinally stationary with respect to the outer tube,” as recited in claim 1. Adding the lever of Pratt to Kapitanov and Mosior fails to suggest the applicator recited in claim 1. Pratt fails to disclose or suggest any additional features that, in combination with Kapitanov and Mosior, suggest the applicator recited in claims 9 and 14. Since claims 9 and 14 depend from claim 1, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office Action has been overcome.

Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of Mosior and Pratt. The Office Action noted that Kapitanov and Mosior disclose the device recited in claim 11 except for a lever having a midsection extension. The Office Action further stated that Pratt discloses a lever having a midsection extension.

As discussed above, Kapitanov does not disclose or suggest an applicator, wherein the “actuation of the actuator rotates the fastener relative to the outer tube while the rotator remains longitudinally stationary with respect to the outer tube,” as recited in claim 1. Adding the lever of Pratt to Kapitanov and Mosior fails to suggest the applicator recited in claim 1. Pratt fails to disclose or suggest any additional features that, in combination with Kapitanov and Mosior, suggest the applicator recited in claim 11. Since claim 11 depends from claim 1, it is respectfully submitted that this claim is in condition for allowance and the rejection of the Office Action has been overcome.

Claims 12, 13, 16 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of Mosior and Pratt. According to the Office Action, Kapitanov and Mosior disclose the devices recited in claims 12, 13, 16, and 18 except for gear teeth, a spring loaded pawl, and a ratchet mechanism. The Office Action asserted that Pratt discloses gear teeth formed within the interior of a handle, a spring loaded pawl pivotally attached to the midsection extension and adapted to engage the gear teeth and a releasable engagement means that is a ratchet mechanism.

As discussed hereinabove, Kapitanov does not disclose or suggest an applicator, wherein the “actuation of the actuator rotates the fastener relative to the outer tube while the rotator remains longitudinally stationary with respect to the outer tube,” as recited in claim 1. Adding gear teeth, a spring loaded pawl, and a ratchet mechanism of Pratt to Kapitanov and Mosior fails to suggest the applicator recited in claim 1. Pratt fails to disclose or suggest any additional features that, in combination with Kapitanov and Mosior, suggest the applicator recited in claims 12, 13, 16, and 18. Since claims 12, 13, 16, and 18 depend from claim 1, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office Action has been overcome.

Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of Mosior and in further view of U.S. Patent No. 5,487,500 to Knodel et al. (“Knodel”). The Office Action stated that Kapitanov and Mosior disclose the device recited in claim 17 except for a mid-section extension with a plurality of teeth formed thereon. The Office Action asserted that Knodel discloses a mid-section extension formed with a plurality of teeth.

As previously discussed, Kapitanov does not disclose or suggest an applicator, wherein the “actuation of the actuator rotates the fastener relative to the outer tube while the rotator

remains longitudinally stationary with respect to the outer tube,” as recited in claim 1. Adding the mid-section extension of Knodel to Kapitanov and Mosior fails to suggest the applicator recited in claim 1. Knodel fails to disclose or suggest any additional features that, in combination with Kapitanov and Mosior, suggest the applicator recited in claim 17. Since claim 17 depends from claim 1, it is respectfully submitted that this claim is in condition for allowance and the rejection of the Office Action has been overcome.

Claims 10 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov and Mosior. The Office Action asserted that Kapitanov discloses the devices recited in claims 10 and 15 except for the lead screw being a high helix lead screw and that it would have been obvious to provide a high helix lead screw.

As discussed above, Kapitanov does not disclose or suggest a rotator, wherein the “actuation of the actuator rotates the fastener relative to the outer tube while the rotator remains longitudinally stationary with respect to the outer tube.” as recited in claim 1. Adding a high helix lead screw to Kapitanov and Mosior fails to suggest the device recited in claim 1. Since claims 10 and 15 depend from claim 1, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office action has been overcome.

New claim 19 has been added herein. The applicants respectfully submit that new claim 19 is allowable over the references of record. In particular, Kapitanov fails to disclose or suggest an applicator having a rotator, “wherein actuation of the actuator rotates the fastener relative to the outer tube and the rotator remains axially stationary with respect to the outer tube,” as recited in claim 19. None of the cited references discloses or suggest any additional feature that, in combination with Kapitanov, suggests the applicator recited in claim 19. Therefore, it is respectfully submitted that new claim 19 is patentable over the cited references.

Appl. No. 10/755,427  
Amendment dated January 11, 2008  
Reply to Office Action Mailed October 30, 2007

In view of the foregoing, reconsideration of the application and allowance of claims 1-19 is earnestly solicited. Should the Examiner desire a telephonic interview to resolve any outstanding matters, the Examiner is sincerely invited to contact the undersigned at (631) 501-5713.

Respectfully submitted,



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